

## **ARTICLE 31.00**

# **ADMINISTRATIVE ORGANIZATION**

### **Section 31.01 – OVERVIEW**

The City Council or its duly authorized representatives as specified in this Article are hereby charged with the duty of enforcing the provisions of this Ordinance. Accordingly, the administration of this Ordinance is hereby vested in the following City entities:

- A. City Council**
- B. City Planning Commission**
- C. Zoning Board of Appeals**
- D. Zoning Enforcement Officials, Including the Building Official and other Enforcement Officials**

The purpose of this part of the Zoning Ordinance is to set forth the responsibilities and scope of authority of these entities.

### **Section 31.02 – CITY COUNCIL**

The City Council shall have the following responsibilities and authority pursuant to this Ordinance.

- A. Adoption of Zoning Ordinance and Amendments**

In accordance with the intent and purposes of this Ordinance, and pursuant to the authority conferred by the Michigan Zoning Enabling Act, Michigan Public Act 110 of 2006, as amended, the City Council shall have the authority to adopt this Ordinance, as well as amendments previously considered by the Planning Council at a hearing or as decreed by a court of competent jurisdiction.
- B. Setting of Fees**

The City Council shall have the authority to set all fees for permits, applications, and requests for action pursuant to the regulations set forth in this Ordinance. In the absence of specific action taken by the City Council to set a fee for a specific permit or application, the appropriate City administrative official shall assess the fee based on the estimated costs of processing and reviewing the permit or application.
- C. Approval of Planning Commission Members**

In accordance with the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, members of the Planning Commission shall be appointed by the Mayor with the approval of the City Council.
- D. Conditional Land Use**

City Council review and approval is required for all Conditional Land Uses, in accordance with Section 28.02.

## **Section 31.03 – CITY PLANNING COMMISSION**

The City Planning Commission shall have the following responsibilities and authority pursuant to this Ordinance.

### **A. Creation**

The City Planning Commission is created pursuant to the Michigan Zoning Enabling Act, Michigan Public Act 110 of 2006, as amended, the Michigan Planning Enabling Act, Michigan Public Act 33 of 2008, and Article 6, sub-section 6.7, of the City Charter. In accordance with Public Act 33 of 2008, as amended, the Planning Commission shall have all the powers and duties provided for zoning boards created pursuant to Michigan Zoning Enabling Act, Michigan Public Act 110 of 2006, as amended.

### **B. Membership and Operation**

Members of the Planning Commission shall be appointed by the Mayor for a term of three (3) years with the approval of the City Council. The qualifications of members, the term of each member, filling of vacancies, removal of members, compensation of members, and operation of the Planning Commission shall be in accordance with the Michigan Planning Enabling Act, Michigan Public Act 33 of 2008, as amended, and Chapter 5, sub-section 5.12, of the City Charter.

In accordance with the Michigan Planning Enabling Act, the Planning Commission shall hold at least one (1) regular meeting a month. The Planning Commission shall adopt rules for the transaction of business, and shall keep a public record of its resolutions, transactions, findings, and determinations.

### **C. Jurisdiction**

The Planning Commission shall discharge the following duties pursuant to this Ordinance:

#### **1. Formulation of Zoning Ordinance and Amendments**

The Planning Commission shall be responsible for formulation of the Zoning Ordinance, review of amendments to the Zoning Ordinance, holding hearings on a proposed Zoning Ordinance or amendments, and reporting its findings and recommendations concerning the Zoning Ordinance or amendments to the City Council.

#### **2. Site Plan Approval**

Planning Commission review and approval is required for all site plans, pursuant to Article 27.04.

#### **3. Conditional Land Use Approval**

Planning Commission review and recommendation to the City Council shall be required for all Conditional Land Uses, in accordance with Section 28.02

#### **4. Formulation of a Basic Plan**

The Planning Commission shall be responsible for formulation and adoption or recommendation of a basic plan (i.e., the City of Midland Master Plan) as a guide for the development of the City, in accordance with the Michigan Planning Enabling Act, Michigan Public Act 33 of 2008, as amended.

#### **5. Review of Matters Referred by the City Council**

The Planning Commission shall be responsible for review of plats or other matters relating to land development referred to it by the City Council. The Planning Commission shall recommend appropriate regulations and action on such matters.

## **Section 31.04 -- ZONING BOARD OF APPEALS**

The City Zoning Board of Appeals (hereinafter referred to as "ZBA") is created pursuant to the Michigan Zoning Enabling Act, Michigan Public Act 110 of 2006, as amended.

### **A. Organization and Procedure**

The ZBA shall consist of five (5) members and two (2) alternates who shall be appointed in accordance with Michigan Public Act 110 of 2006, as amended.

1. The qualifications of members, the term of each member, filling of vacancies, compensation of members, and operation of the ZBA shall be in accordance with Michigan Public Act 110 of 2006, as amended. The ZBA shall not conduct business unless a majority of the members of the Board are present.
2. Meetings of the ZBA shall be held in accordance with an adopted schedule, or at the call of the Chairman, or at such other times as the ZBA may specify in its rules and procedures. The ZBA shall state the grounds of each determination, and shall maintain a record of its proceedings, which shall be filed in the office of the City Clerk.
3. Hearings and meetings of the ZBA shall be public.
4. The ZBA shall not conduct business unless a majority of the ZBA is present. The concurring vote of a majority of the members of the ZBA, i.e. three (3) affirmative votes, shall be necessary to reverse an order, requirement, permit, decision, or refusal made by an official, board, or commission.
5. In the event alternate members to this Board are appointed by the City Council, the alternate members may be called on a rotating basis by the chairman to sit as regular members of the ZBA in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision in a case in which the regular member has abstained for reasons of conflict of interest. The alternate member, having been appointed, shall serve in the case until a final decision has been made. The alternate members shall have the same voting rights as a regular member of the ZBA.

### **B. Jurisdiction**

The ZBA shall have the authority outlined in Article 29.00.

## **Section 31.05 -- ZONING ENFORCEMENT OFFICER, BUILDING OFFICIAL AND OTHER ENFORCEMENT OFFICIALS**

### **A. Overview**

As specified throughout this Ordinance, certain actions necessary for the implementation of this Ordinance shall be administered by the Zoning Enforcement Officer. In carrying out their designated duties, all such enforcement officers shall administer the Ordinance precisely as it is written and shall not make changes or vary the terms of the Ordinance.

### **B. Responsibilities of the Zoning Enforcement Officer and Representatives**

In addition to specific responsibilities outlined elsewhere in this Ordinance, and in addition to specific responsibilities related to enforcement and administration of the Zoning Ordinance, the

Zoning Enforcement Officer or his/her duly authorized representatives shall have the following responsibilities:

1. Provide citizens and public officials with information relative to this Ordinance and related matters.
2. Assist applicants in determining and completing appropriate forms and procedures related to site plan review, rezoning, and other zoning matters.
3. Review and investigate permit applications to determine compliance with the provisions of the Zoning Ordinance.
4. Perform inspections of buildings, structures, and premises to insure proposed land use changes or improvements are and will remain in compliance with this Ordinance.
5. Investigate alleged violations of this Ordinance and enforce appropriate corrective measures when required, including issuance of violation notices, issuance of orders to stop work, and revoking of permits.
6. Perform other related duties required to administer this Ordinance.

#### **C. Responsibilities of the Building Official and Representatives**

In addition to specific responsibilities outlined elsewhere in this Ordinance, and in addition to specific responsibilities related to enforcement and administration of the adopted Building Code, the Building Official or his/her duly authorized representatives shall have the following responsibilities:

1. Issue building or other appropriate permits when all provisions of this Ordinance and other applicable ordinances have been complied with.
2. Issue Certificates of Occupancy in accordance with Building Department procedures.
3. Perform inspections of buildings, structures, and premises to insure proposed land use changes or improvements are and will remain in compliance with this Ordinance.
4. Perform other related duties required to administer this Ordinance.

### **Section 31.06 – Zoning Compliance Permit**

#### **A. Intent**

The intent of this Section is to establish a review and permit process for administration of this Ordinance. A zoning compliance permit shall be required for construction on vacant land, a change of land use or a change in use of an existing building or structure. Zoning compliance permits shall be applied for and issued concurrently with building permits.

#### **B. Zoning Compliance Permit**

A zoning compliance permit shall be required prior to any construction on vacant or improved land, or any construction or alterations whether requiring a building permit or not. Zoning compliance permits shall be applied for and issued concurrently with building permits. In addition, any change of land use shall also require a zoning compliance permit to ensure that all applicable zoning ordinance requirements are adhered to and compliance with the Zoning Ordinance is achieved.

##### **1. Permit Required**

A zoning compliance permit is required when a change in land use is proposed and a building permit is required by the adopted Building Code.

**2. Application Requirements**

No permit shall be issued for construction, alteration, or remodeling of any building or structure where a change in land use is proposed until an application has been submitted, showing that the proposed uses, structures and buildings are in conformance with the provisions of this Ordinance.

Applications for permits required by this Section shall be filed with the Building Official.

**3. Expiration of Permits**

If construction has not commenced within six (6) months of the issue of a zoning compliance permit, the permit becomes null and void. Upon written request from the applicant prior to expiration of the previous approval, a six (6) month extension may be granted by the Building Official, if it finds that the approved zoning compliance permit application adequately represents current conditions on and surrounding the site and conforms to current zoning ordinance standards. The written request for extension shall be received by the Building Official or post marked prior to the expiration date or a new application for a zoning compliance permit will be required.

## **Section 31.07 -- Violations and Penalties**

**A. Violation Defined**

Any person, firm, corporation, or agent, or any employee, contractor, or subcontractor of same, who fails to comply with any of the provisions of this Ordinance or any of the regulations adopted in pursuance thereof, or who impedes or interferes with the enforcement of this Ordinance by the Zoning Enforcement Officer or other enforcement official, shall be deemed in violation of this Ordinance.

**B. Penalty**

Any person, firm, co-partnership, or corporation violating or neglecting or refusing to comply with any of the provisions of this Ordinance shall be responsible for any penalties, as set forth in Chapter 34, Municipal Civil Infractions, in the Code of Ordinances of the City of Midland.

Furthermore, the owner or tenant of any building, structure, premise, or part thereof, and any architect, engineer, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains any violation of the Ordinance may each be found guilty of a separate offense and may be subject to the penalties provided herein. The cost of prosecution shall also be assessed against the violator.

The imposition of any sentence shall not exempt the offense from compliance with the requirement of this Ordinance.

**C. Rights and Remedies Preserved**

Any failure or omission to enforce the provisions of this Ordinance, and failure or omission to prosecute any violations of this Ordinance, shall not constitute a waiver of any rights and remedies provided by this Ordinance or by law, and shall not constitute a waiver of nor prevent any further prosecution of violations of this Ordinance.